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10 Attorneys for United States of America

11 UNITED STATES DISTRICT COURT

12 NORTHERN DISTRICT OF CALIFORNIA

13 SAN JOSE DIVISION

14 UNITED STATES OF AMERICA, ) CR-18-00258-EJD  
15 Plaintiff, )  
16 ) STIPULATION AND [PROPOSED] SECOND  
17 v. ) SUPPLEMENTAL PROTECTIVE ORDER  
18 ELIZABETH HOLMES and )  
18 RAMESH "SUNNY" BALWANI, )  
19 Defendants. )  
20 \_\_\_\_\_)

21 The United States of America, by and through ADAM A. REEVES, Attorney for the United States  
22 Acting Under Authority Conferred by 28 U.S.C. § 515, and JEFF SCHENK, JOHN C. BOSTIC, and  
23 ROBERT S. LEACH, Assistant United States Attorneys for the Northern District of California, and the  
24 defendants, ELIZABETH HOLMES and RAMESH "SUNNY" BALWANI, and their attorneys, KEVIN M.  
25 DOWNEY and LANCE A. WADE of Williams & Connolly for HOLMES, and JEFFREY B.  
26 COOPERSMITH and STEPHEN A. CAZARES of Davis Wright Tremaine for BALWANI, hereby stipulate  
27 as follows.

28  
STIPULATION AND [PROPOSED] SECOND SUPPLEMENTAL PROTECTIVE ORDER  
CR-18-00258 EJD

1 On July 9, 2010, the government made available to the defense for its inspection and review  
2 documents Bates-numbered AGENT\_NOTES-000001 to AGENT\_NOTES-000848, which consist of agent  
3 notes of the Federal Bureau of Investigation (“FBI”), United States Postal Inspection Service (“USPIS”), and  
4 Food and Drug Administration, Office of Criminal Investigations (“FDA-CI”) (“Agent Notes”);

5 On July 22, 2019, the Court issued an Order re Review of Agent Notes, directing the parties to meet  
6 and confer regarding a stipulated protective order regarding the defendants’ receipt, handling, and use of the  
7 notes.

8 The parties have met and conferred and jointly request that the Court issue a Second Supplemental  
9 Protective Order as follows:

10 1. The Agent Notes, and any notes of the FBI, USPIS, or FDA-CI subsequently produced by  
11 the government bearing the Bates prefix “AGENT\_NOTES,” shall be considered “Protected Materials.”

12 2. The defendants, the defendants’ attorneys, and members of the defense team (including any  
13 investigators, paralegals, law clerks, assistants, expert witnesses, and other persons who are within the  
14 attorney-client privilege) shall not provide copies, or otherwise disclose the contents, of the Protected  
15 Materials to any third party or make any public disclosure of the Protected Materials.

16 3. The defendants, the defendants’ attorneys, and members of the defense team may duplicate  
17 the Protected Materials only to the extent necessary to prepare the defense of this matter; they shall  
18 maintain the Protected Materials in a secure environment at the law offices of the undersigned counsel;  
19 they may use the Protected Materials and their contents only to prepare the defense of this matter; and they  
20 may not use the Protected Materials, or their contents, in any other proceeding.

21 4. Either defendant may at any time serve upon counsel for the United States a written notice  
22 objecting to any designation by the United States pursuant to paragraph 1. If agreement cannot be reached  
23 promptly, defendant may seek relief from the Court.

24 5. Any pleadings that reveal the contents of Protected Materials shall be filed under seal or  
25 redacted to prevent the disclosure of such contents.

26 6. Before trial, the parties shall meet and confer regarding appropriate procedures for use of  
27 Protected Materials at trial.

1 DATED: July 30, 2019

Respectfully submitted,

2 ADAM A. REEVES  
3 Attorney for the United States  
4 Acting Under Authority Conferred  
By 28 U.S.C. § 515

5 /s/

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JEFF SCHENK  
7 JOHN C. BOSTIC  
8 ROBERT S. LEACH  
9 Assistant United States Attorneys

10 DATED: July 30, 2019

11 WILLIAMS & CONNOLLY LLP

12 /s/

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KEVIN M. DOWNEY  
14 LANCE A. WADE  
15 Attorneys for Elizabeth Holmes

16 DATED: July 30, 2019

17 DAVIS WRIGHT TREMAINE LLP

18 /s/

19 

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JEFFREY B. COOPERSMITH  
20 STEPHEN A. CAZARES  
21 Attorneys for Ramesh “Sunny”  
22 Balwani

23 SO ORDERED.

24 DATED: \_\_\_\_\_

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THE HONORABLE EDWARD J. DAVILA  
26 United States District Court Judge